

IN THE
UNITED STATES DISTRICT COURT
FOR THE
WESTERN DISTRICT OF VIRGINIA
DANVILLE DIVISION

UNITED STATES OF AMERICA)
)
)
v.) Criminal No. 4:18-cr-00012
)
)
DESHAWN ROMEER ANTHONY)
Et al.)

UNITED STATES' NOTICE OF ADDITIONAL DISCOVERY

The United States respectfully provides this notice to the Court of additional discovery items provided to Discovery Counsel on May 24, 2019. The contents of that discovery and the grounds for this Notice are as follows:

1. This Court ordered the government to “substantially complete all pretrial discovery by April 1, 2019.” Third Amended Scheduling Order, ECF No. 275, ¶2. As the Order reflects and this Court has recognized orally at various status hearings, criminal discovery can be an ongoing process. Even though the Order does not require *all* discovery by the April 1 deadline, the government has treated the Order as if it did, and worked to disclose all discovery and *Jencks* materials before that date. Some of those efforts have been discussed at prior hearings. *E.g.*, Minute Entry, ECF Nos. 136, 200.
2. As detailed in a prior Notice of Additional Discovery, on April 4, 2019 (ECF No. 294), the United States provided what it believed to the last of its discovery and had repeatedly been assured by the Federal Bureau of Investigation that the discovery was complete. Despite these representations, the United States has made supplemental discovery disclosures to Discovery

Counsel after the April 1 deadline and has provided notice to the Court of these supplemental filings. To assure the Court that it believed discovery was then complete, at the last hearing the United States requested the appearance of the FBI Senior Supervisory Special Agent responsible for this investigation.

3. As noticed in its previous discovery filing, in compiling its trial exhibits and expert witness notices, the United States learned that it did not possess the entirety of the files from the ballistic and narcotics experts from the Virginia Department of Forensics. Part of those files have previously been disclosed. The missing documents from the ballistics experts are contained in Production 16, which was sent to Discovery Counsel on May 24, 2019. Most of these files constitutes the expert's *Jencks* materials and/or are administrative documents, not required for disclosed by Rule 16.¹

4. The release of these documents almost five months before trial does not prejudice the defendants, who have previously received ballistics records indicating the expert's conclusions (e.g., that some of the ballistic evidence in various shootings matches ballistic evidence in other shootings believed to have been committed by the defendants). These additional materials simply support and further detail that evidence.

5. The United States has again been assured by the FBI that all discovery has been provided. As has been its policy, the government will alert the Court by similar notice of any additional discovery. Again, the United States believes all discovery has been provided other than what is noted.

¹ The United States anticipates receiving part of one more file from the Virginia Department of Forensic Science, to include the laboratory analysis of marijuana seized from Defendants Phillip Miles, Kanas Trent, Kevin Trent, and Deshaun Trent on November 2, 2016. The ballistic portion of that file is disclosed in Production 16.

WHEREFORE, the United States hereby respectfully provides the Court with notice of additional discovery.

Respectfully submitted,

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DATED: May 28, 2019

C E R T I F I C A T E

I hereby certify that a true and correct copy of the foregoing has been electronically filed with the Clerk by CM/ECF system, which will send notification of such filing to all counsel of record, on this 28th day of May, 2019.

s/Heather L. Carlton